

16th June,
2025
(AK)
24

F.A.T 60 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Smt. Tumpa Santra
Vs.
Smt. Sushila Das and others

Mr. Sanat Kumar Roy
Mr. Baidurya Ghosal

...for the appellant.

Mr. Soumak Bera

...for the respondent nos.
8, 9, 10, 13, 14 & 15.

1. The delay in filing the appeal is of about five years.
2. The impugned judgment was admittedly passed on February 27, 2019 and the preliminary decree of partition from which the appeal arises was signed on March 30, 2019.
3. The explanation proffered in the application under Section 5 of the Limitation Act is that the said order was not known to the appellant for a couple of years because of the Pandemic (Covid-19) situation prevalent at the material time and that on coming to know of the said judgment and decree in the middle of 2024, the appellant engaged another lawyer to look into the case and an application was made praying for declaration of the share of the appellant.

4. Such application was apparently rejected by the learned trial Judge.
5. The appellant, only thereafter, applied for having the certified copy of the judgment and preliminary decree on December 2, 2024 and the same was made ready subsequently, upon which the present appeal has been preferred.
6. However, there are glaring gaps in the explanation.
7. First, the Pandemic started only in or about March, 2020 whereas the impugned judgment and decree were passed on February 27, 2019. The explanation for the period in-between is missing.
8. Moreover, there was nothing to prevent the appellant from at least taking information about her case from the learned Advocate conducting the matter in the trial court over telephone even during the Pandemic period.
9. There is no averment whatsoever that between February 2019, when the impugned judgment was passed, and the middle of 2024, when the appellant allegedly engaged another learned Advocate, any step whatsoever was taken by the appellant to enquire about her case.
10. Even thereafter, a flimsy application was made in the trial court and rejected, which excuse is neither here nor there.

11. The certified copy of the judgment of preliminary decree impugned herein was applied for only on December 2, 2024, that is, more than five years after the passing of the same.
12. We do not find any plausible explanation whatsoever having been furnished in the application and accordingly are unable to hold that the appellant was at all diligent in conducting her litigation at any point of time.
13. The lenient approach generally adopted in condonation applications cannot be extended to a palpably negligent litigant such as the present appellant, who did not care to look after her own case or contact her lawyers.
14. As such, we do not find any sufficiency in the reasons shown for preferring the appeal late.
15. Accordingly, CAN 1 of 2025 is dismissed on contest.
16. Consequentially, FAT 60 of 2025 is dismissed as time-barred.
17. As a result, CAN 2 of 2025 also stands dismissed.
18. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)